IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4933 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT ELECTRICITY BOARD - Petitioner(s)
Versus
APEX CONTAINERS & 1 - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1,
MR MTM HAKIM for Respondent(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 2,
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 16/01/2006

ORAL JUDGMENT

By way of this petition under Article 226/227 of the Constitution of India, the petitioner, Gujarat Electricity Board has challenged the legality and validity of the order passed by the Electrical

Inspector, Vadodara dated 19th April 1999 under Section 26(6) of the Indian Electricity Act, 1910, holding that the Bill issued by the GEB to the respondent is on a higher side and further directing the petitioner Board to issue a revised Bill as directed.

2. The respondent is one of the consumers of the GEB and was having electricity connection being Consumer No. 14222/02988/2. It appears from the record that on the basis of the meter reading on 2nd May 1999, a bill amounting to Rs. 44,385.88 ps. came to be issued. As the respondent consumer did not make payment of the aforesaid bill, electricity supply was disconnected on 20th July 1997. Thereafter the respondent approached the petitioner and got the electricity supply restored on making payment of 30% of the Bill amount on 10th September 1997. It appears from the record that after the aforesaid Bill dated 2nd May 1997 the respondent No.1 consumer made a complaint on 20th May 1997 to the G.E.B., to the effect that the glass of the meter was broken. It is the contention on behalf of the petitioner that the

same was an afterthought and the said complaint was filed after the aforesaid Bill. However, inspite of that a new meter was installed on 25th September 1997. It is the case on behalf of the petitioner that the old meter which was removed on 18th September 1997 was sent to Laboratory for checking and it was found that there was tampering with the meter. There was no revised Bill issued on the basis of the Laboratory Report inspite of the fact that the meter was found tampered with and the dispute was only with regard to the regular bill sent on 2nd May 1997 and inspite of that the respondent No.1 approached the respondent No.2, Electrical Inspector, Vadodara, by just making a formal application without there being any complaint about faulty meter and without there being any application under Section 26(6) of the Indian Electricity Act. It is the case on behalf of the petitioner that though it was submitted that it was not the case under Section 26(6) of the Act and therefore the proceedings before him are not maintainable and that he has no jurisdiction, still the Electrical Inspector passed the impugned order dated 19th April 1999 setting aside the aforesaid Bill

dated 2nd May 1997 and directing the GEB to issue a revised Bill. Being aggrieved and dissatisfied with the same, the petitioner has preferred the present petition under Article 226 of the Constitution of India.

3. Shri Barot, learned advocate appearing for Shri Munshaw, learned advocate for the petitioner, has submitted that the impugned order passed by the Electrical Inspector is without jurisdiction. He has submitted that the Electrical Inspector has materially erred in entertaining the said application treating it as under Section 26(6) of the Act and revising the Bill, for which there was no complaint with regard to faulty meter. It was submitted that it was a routine bill and though it was found by the Laboratory Inspector that there was tampering with the meter, no supplementary bill was issued and for the dispute with regard to the regular bill dated 2nd May 1997 the petitioner approached the Electrical Inspector by way of a simple application after a period of almost 7 months and that earlier there was no dispute raised with regard to the faulty meter.

It is therefore requested to allow the present Special Civil Application.

4. Shri MTM Hakim, learned advocate appearing on behalf of the respondent No.1 has tried to support the order passed by the Electrical Inspector and submitted that merely because a simple application was given to the Electrical Inspector it cannot be said that there is no dispute under Section 26(6) of the Act. It is, therefore, requested to dismiss the present Special Civil Application.

5. Heard the learned advocates appearing on behalf of the parties. It is required to be noted that the impugned bill was dated 2nd May 1997; thereafter the meter was removed and new meter was installed; the old meter was sent to the Laboratory Inspector; and it was found that there was tampering with the meter. Thereafter, after a period of almost 7 months of the impugned bill dated 2nd May 1997, i.e., in the month of January 1998 the respondent No.1 submitted a simple application to the Electrical Inspector treating the same to be under Section 26(6)

of the Act, and having found that more units are recorded the Electrical Inspector treated the case under 26(6) of the Act and has held that it might be due to faulty meter. On going through the entire order passed by the Electrical Inspector, it appears to the Court that the Electrical Inspector has materially erred in setting aside the bill dated 2nd May 1997 and directing the GEB to issue supplementary bill considering the consumption as 188 units. On going through the order, on what basis the Electrical Inspector has considered the number of units as 188 is not appreciable. The Electrical Inspector has also materially erred in treating the case under Section 26(6) of the Act as initially it was not the case of the respondent No.1 that the meter was faulty, and unless it is alleged that the meter was faulty the Electrical Inspector would not have any jurisdiction. The impugned order of the Electrical Inspector requires to be quashed and set aside as the same is without jurisdiction.

6. For the reasons stated above, the petition succeeds. The impugned order passed by the

Electrical Inspector, Vadodara, dated 19th April 1999 is hereby quashed and set aside. The consequential order shall accordingly follow. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

[M.R. Shah, J.]

RMR.